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10/068,811	02/06/2002	Lori Greiner	13345.45US01	8440

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EXAMINER

SZUMNY, JONATHON A

ART UNIT PAPER NUMBER

3632

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/068,811

Applicant(s)

GREINER, LORI

Examiner

Jon A Szumny

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-- Th MAILING DATE of this communication appears on th cover sh et with the correspondenc address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 44 and 50-92 is/are pending in the application.
- 4a) Of the above claim(s) 72-74, 89 and 90 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44, 50-71, 75-88, 91 and 92 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2003 06 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

This is the third office action for application number 10/068,811, Jewelry Organizer, filed on February 6, 2002.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 50-53, 55, 57, 67, 71, 76, 77, 82 and 92 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent number 2,286,427 to Levensten in view of U.S. Patent number 2,995,409 to Simonsen.

Levensten '427 teaches an wood organizer (figure 1, column 1, line 35) comprising a top section (figure 1) with a lid (2) and a compartment (figure 1), a middle section (figure 1) located under the top section and having a compartment/plurality of drawers (figure 1), and a bottom section (figure 1) located under the middle section. However, Levensten '427 fails to specifically teach the top section to have a first set and a second set of a symmetrically arranged plurality of drawers each of that in a first position are stacked on the other and in a second position are slid out to an extended position to expose the interior of each drawer.

Simonsen '409 divulges an organizer (figure 1) having top and middle sections (figure 1) wherein the top section has a first set and a second set of a symmetrically arranged plurality of drawers each of that in a first position are stacked on the other and

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in a second position are slid out to an extended position to expose the interior of each drawer wherein a lid (11,12) covers the drawers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the top section of Levensten '427 as in Simonsen '409 so as to have a first set and a second set of a symmetrically arranged plurality of drawers each of that in a first position are stacked on the other and in a second position are slid out to an extended position to expose the interior of each drawer wherein the drawers are covered by a lid in order to increase the utility and adjustability of the organizer of Levensten '427 so as to appeal to a greater number of users.

Claims 50-53, 55, 67, 76, 77 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent number 6,045,202 to Simon in view of Simonsen '409.

Simon '202 discloses an organizer (figure 1) comprising a top section (figure 1) with a lid (14) and a compartment (figure 1), a middle section (figure 1) located under the top section and having a compartment/drawer (figure 1), and a bottom section (figure 1) located under the middle section. However, Simon '202 fails to specifically teach the top section to have a first set and a second set of a symmetrically arranged plurality of drawers each of that in a first position are stacked on the other and in a second position are slid out to an extended position to expose the interior of each drawer.

Simonsen '409 divulges an organizer (figure 1) having top and middle sections (figure 1) wherein the top section has a first set and a second set of a symmetrically

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arranged plurality of drawers each of that in a first position are stacked on the other and in a second position are slid out to an extended position to expose the interior of each drawer wherein a lid (11,12) covers the drawers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the top section of Simon '202 as in Simonsen '409 so as to have a first set and a second set of a symmetrically arranged plurality of drawers each of that in a first position are stacked on the other and in a second position are slid out to an extended position to expose the interior of each drawer wherein the drawers are covered by a lid in order to increase the utility and adjustability of the organizer of Simon '202 so as to appeal to a greater number of users.

Claims 54 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon '202 in view of Simonsen '409, and in the alternative, over Simon '202 in view of Simonsen '409, and further in view of U.S. Patent number 1,600,830 to Lewis.

Simon '202 in view of Simonsen '409 teach the previous invention, and further show the teaching of a mirror (figure 1) on the inner surface of the lid. However, the mirror might not be interpreted as being such. Nevertheless, Lewis '830 reveals an organizer (figure 1) with a top section with a lid (20) having a mirror (42) on an inner surface thereof. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a mirror on the inner surface of the lid of Simon '202 in view of Simonsen '409 in order to increase the utility of the organizer by providing a convenient location for a mirror.

Claims 56, 63, 64, 80 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon '202 in view of Simonsen '409, and further in view of U.S. Patent number 4,511,041 to Waitzman.

Simon '202 in view of Simonsen '409 teach the previous invention failing to specifically reveal the top and middle sections to be lined with an anti-tarnish cloth. However, Waitzman '041 discloses the use of an organizer where a tray/drawer/compartment is lined with an anti-tarnish cloth (column 1, lines 31-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have lined the drawers/compartments of the top and middle sections with an anti-tarnish cloth so as to protect articles placed within the organizer from damage or marring.

Claims 58-60, 62, 70, 75, 78, 79, 88 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levensten '427 in view of Simonsen '409, and further in view of U.S. Patent number 2,268,637 to Bernstein.

Levensten '427 in view of Simonsen '409 teaches the previously described invention, wherein the interior spaces/compartments can be partitioned (column 4, lines 61-65), but fail to specifically show the drawer/compartment/lift out drawers/middle section to include a plurality of removable/adjustable dividers hence dividing the drawer/compartment/lift out drawers/middle section into smaller sections/areas/compartments. However, Bernstein '637 discloses a compartment/drawer (18) with a plurality of removable/adjustable dividers (figure 4) located therein. It would have been obvious to one of ordinary skill in the art at the time

the invention was made to have included a plurality of removable dividers in the drawer/compartment/lift out drawers/middle section of Levensten '427 in view of Simonsen '409 as in Bernstein '637 so as to divide the drawer/compartment/lift out drawers/middle section into smaller sections/areas/compartments in order to allow objects or items located within the drawer/compartment/lift out drawers/middle section to be conveniently organized hence providing for a more orderly organizer.

Claims 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simon '202 in view of Simonsen '409, and further in view of British Application number 2,217,298 to Wood.

Simon '202 in view of Simonsen '409 teach the previous invention failing to specifically teach at least one of the lift out drawers to comprise a ring platform therein. However, Wood '298 teaches an organizer (figure 1) with a drawer/compartment including a ring platform (8) therein. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a ring platform as in Wood '298 in one of the lift out drawers of Simon '202 in view of Simonsen '409 so as to increase the utility of the organizer and allow rings and other similar jewelry to be conveniently stored and displayed within the organizer.

Claims 65, 66, 84 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon '202 in view of Simonsen '409, and further in view of U.S. Patent number 1,131,713 to Kramer.

Simon '202 in view of Simonsen '409 divulge the previous invention failing to specifically teach a secret compartment to be located on the back of the organizer.

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However, Kramer '713 teaches an organizer (figure 1) with a "secret" compartment (figure 2, lines 32-34) on a backside thereof. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a secret compartment on a backside of the organizer of Simon '202 in view of Simonsen '409 as in Kramer '713 so as to increase the utility of the organizer by providing for more storage for objects and items.

Claims 44, 68, 69, 86 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levensten '427 in view of Simonsen '409 and U.S. Patent number 1,369,577 to Townley.

With respect to claims 44, 68 and 86, Levensten '427 in view of Simonsen '409 disclose the previous invention failing to specifically teach the middle section to have a pair of doors that can be pivoted to an open position to expose the plurality of drawers and to a closed position to conceal the plurality of doors. However, Townley '577 teaches an organizer (figure 1) including a top section and a middle section with a plurality of stacked drawers (18) with pivotal doors (13,14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced the door of Levensten '427 in view of Simonsen '409 with a pair of pivotal doors as in Townley '577 so as to provide for a more aesthetically pleasing organizer in addition to providing for an alternate drawer concealing means.

Regarding claims 69 and 87, Levensten '427 in view of Simonsen '409 and Townley '577 teach the previous invention failing to specifically teach a bar to be located on an inner surface of the door of the middle section. However, Townley '577



teaches the inner surface of the door to have a bar (figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a bar on the inner surface of the door so as to increase the utility of the organizer by providing a convenient location to hang an object or item.

### ***Response to Arguments***

Applicant's arguments filed May 5, 2003 have been fully considered but they are not persuasive.

On the bottom of page 10, the applicant informs the Examiner that claim 92 doesn't call for a plurality of drawers, only a single drawer. The Examiner never asserted that claim 92 called for a plurality of drawers. While the art the Examiner utilized in rejecting claim 92 did indeed include a plurality of drawers, such a fact doesn't diminish the fact that the same art still taught "a drawer."

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, an ordinary artisan would have recognized that including a plurality of drawers in the invention of Levensten '427 as in Simonsen '409 would **clearly**

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increase the utility of the organizer, and such a combination would be a common goal in the art of organizers, hence the name "organizers."

Continuing, in the middle of page 11, the applicant alleges "Simon does not suggest or motivate to one of ordinary skill in the art to modify its top member 12 so as to have a plurality of lift out drawers" and that "... The Examiner's conclusion... is based on improper hindsight reasoning." In response to the applicant's former assertion, this comes as absolutely no surprise to the Examiner. If Simon had suggested or motivated to one of ordinary skill in the art to modify its top member 12 so as to have a plurality of lift out drawers, the Examiner would not have had to rely on Simonsen '409 for such a teaching. In response to the latter allegation, the Examiner's motivation for modifying Simon '202 with Simonsen '409 is similar to that as previously described.

Finally, on the top of page 13, with regards to the rejection of claim 44 as being unpatentable over Levensten '427 in view of Simonsen '409 and Townley '577, the applicant contends that the items (18) referred to by the Examiner in Townley '577 are not "drawers," but "shelves." Merriam Webster's Collegiate Dictionary - 10<sup>th</sup> Edition clearly states that a drawer is "A sliding box or receptacle opened by pulling out and pushing in." Clearly, with reference to figures 2-4 as well as lines 99-100, items (18) qualify as "drawers."

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

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references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the applicant should make reference to the bottom of page 8 and top of page 9 of the previous office action where motivation was clearly spelled out for the applicant.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.


The fax phone number for the organization where this application and proceeding are assigned is (703) 305-7687.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny  
Patent Examiner  
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Art Unit 3632  
June 5, 2003



**RAMON O. RAMIREZ**  
**PRIMARY EXAMINER**  
**ART UNIT ~~3632~~ 3682**